

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

---

GARY GOLDMAN, et al.,	:	CASE NO. 10-cv-3051
	:	Judge Robert W. Gettleman
vs.	:	Magistrate Judge Mary W. Rowland
DANIEL SPITZER, et al.	:	Jury Trial Demanded

---

**MOTION OF ANTHONY J. BARATTA AND JUSTIN O. KAY  
TO WITHDRAW AS COUNSEL FOR DEFENDANTS  
EMANUEL L. SARRIS, SR. AND SARRIS FINANCIAL GROUP**

Anthony J. Baratta (“Primary Counsel”) and Justin O. Kay (“Local Counsel”) (together, “Movants”), counsel for Defendant Emanuel L. Sarris, Sr. and Sarris Financial Group (the “Sarris Defendants”), and local counsel Defendant Emanuel L. Sarris, Sr., respectively, hereby move for leave to withdraw their appearances. In support of this motion, Movants state the following:

1. In February 2011, Anthony J. Baratta, was retained by the Sarris Defendants to represent them in connection with the above-captioned matter. In March 2011, Justin O. Kay was retained to serve as local counsel for Emanuel L. Sarris, Sr. in this Court.

2. March 15, 2011, the Sarris Defendants moved to dismiss the claims against them. Plaintiffs responded by amending their complaint, and on June 2, 2011, the Sarris Defendants again moved to dismiss. On October 19, 2011, after briefing was completed, the Court denied the motion to dismiss.

3. The Sarris Defendants, through Primary Counsel, thereafter engaged in settlement discussions with plaintiff's counsel. The Sarris Defendants filed their Answer and Cross Claim on March 26, 2012, and continued to engage in settlement discussions with plaintiff's counsel through Primary Counsel until May 11, 2012, when Emanuel L. Sarris, Sr. filed a Voluntary Petition for Bankruptcy in the Southern District of Florida, Case No. 12-21642-PGH, resulting in a stay in this matter as to him. Bankruptcy counsel for Emanuel L. Sarris, Sr. thereafter handled settlement discussions on behalf of the Sarris Defendants with plaintiff's counsel.

4. Via letter dated September 19, 2012, Primary Counsel informed the Sarris Defendants of his intent to file this Motion absent satisfaction of specified conditions, including payment of fees as required by the retention agreement. Via subsequent discussions with Emanuel L. Sarris, Sr., Primary Counsel understands that no payment will be forthcoming.

5. Pursuant to Local Rule 83.17, and Local Rule of Professional Conduct 83.51.16, Movants seek this Court's permission to withdraw their representation of the Sarris Defendants. Withdrawal is proper because the Sarris Defendants (i) have consented to Movant's withdrawal, and (ii) have substantially failed to fulfill their obligation to the Movants as to expenses and fees, and indicated they cannot fulfill those obligations moving forward.

6. Primary Counsel has taken reasonable steps to avoid any foreseeable prejudice to the rights of the client, by providing notice to the client of his intent to withdraw and allowing time

for employment of other counsel, and shall deliver to the client all papers and property to which the client is entitled upon request.

7. Defendant, Emanuel L. Sarris, Sr., consents to the entry of this Order. See attached as Exhibit "A" hereto Affidavit of Emanuel L. Sarris, Sr.

8. The last known address and contact information for the Sarris Defendants is 19001 S.E. Castle Road, Jupiter, Florida 33458.

9. To the best of Primary Counsel's knowledge, information, and belief, there is no substitute counsel prepared to enter an appearance in this matter on behalf of the Sarris Defendants.

WHEREFORE, based upon the foregoing reasons, Movants Anthony J. Baratta and Justin O. Kay respectfully request the issuance of an order permitting them to withdraw as counsel in this matter.

Respectfully submitted,

/S/ANTHONY J. BARATTA

ANTHONY J. BARATTA (admitted *ProHacVice*)

[tony@barattarussell.com](mailto:tony@barattarussell.com)

BARATTA, RUSSELL & BARATTA

3500 Reading Way

Huntingdon Valley, PA 19006

(215) 914-2222; fax (215) 914-2118

/s/JUSTIN O. KAY (BY CONSENT)

Justin O. Kay (ARDC NO. 6286557)

[Justin.kay@dbr.com](mailto:Justin.kay@dbr.com)

Drinker Biddle & Reath LLP

191 N. Wacker Drive Suite 3700

Chicago, IL 60606-1698

(312) 569-1381; fax (312) 569-3381

DATED: October 11, 2012

**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of *Motion of Anthony J. Baratta and Justin O. Kay To Withdraw as Counsel for Defendants, Emanuel L. Sarris Sr., and Sarris Financial Group, Inc.*, was served upon counsel and party listed below via the Court's Electronic Filing system. Any counsel or party not served via the Court's system will be served via email personally by Defendant's counsel.

Alan C. Milstein [amilstein@shermansilverstein.com](mailto:amilstein@shermansilverstein.com)  
Gary M. Sinclair [gary@garyslaw.com](mailto:gary@garyslaw.com)  
Jason R. Brost [jrb@hendricksonlawfirm.com](mailto:jrb@hendricksonlawfirm.com)  
John M. George [jgeorge@kattentemple.com](mailto:jgeorge@kattentemple.com), [acorona@kattentemple.com](mailto:acorona@kattentemple.com)  
Julie Thrall Burrow [jtb@hendricksonlawfirm.com](mailto:jtb@hendricksonlawfirm.com)  
Nancy Anne Temple [ntemple@kattentemplelaw.com](mailto:ntemple@kattentemplelaw.com)  
Nancy L. Hendrickson [nancy@hendricksonlawfirm.com](mailto:nancy@hendricksonlawfirm.com)  
Tina J. Cohen [tcohen@kattentemple.com](mailto:tcohen@kattentemple.com)  
Vivian Drohan [vdrohan@dlkny.com](mailto:vdrohan@dlkny.com)

Sarris Financial Group, Inc.,  
19001 SE Castle Road  
Jupiter, Florida 33458

Emanuel L. Sarris, Sr.  
19001 SE Castle Road  
Jupiter, Florida 33458

BARATTA, RUSSELL & BARATTA

BY: /s/ANTHONY J. BARATTA  
ANTHONY J. BARATTA, ESQUIRE  
3500 Reading Way  
Huntingdon Valley, PA 19006

DATED: October 11, 2012

**EXHIBIT “A”**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

---

GARY GOLDMAN, et al.,	:	CASE NO. 10-cv-3051
	:	Judge Robert W. Gettleman
vs.	:	Magistrate Judge Nan R. Nolan
DANIEL SPITZER, et al.	:	

---

**AFFIDAVIT OF EMANUEL L. SARRIS, SR.**

COMMONWEALTH OF PENNSYLVANIA  
SS  
COUNTY OF MONTGOMERY

Emanuel L. Sarris, Sr., being duly sworn according to law deposes and says the following:

I, Emanuel L. Sarris, Sr., have reviewed the Motion of Anthony J. Baratta and Justin O. Kay to withdraw as counsel for myself and Sarris Financial Group, Inc. Statements in this Motion are true and accurate to the best of my understanding and belief.

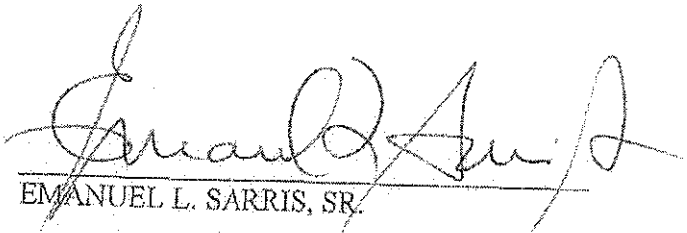
More specifically, by letter dated September 19, 2012, Anthony J. Baratta, Esquire, informed me and Sarris Financial Group that he intended to file this Motion to Withdraw if fees he and Justin O. Kay were due per the retention agreement were not paid. In subsequent discussions, I have advised Anthony J. Baratta, Esquire that neither his nor Justin O. Kay's past fees and expenses will be paid due to my bankruptcy filing. I am unable to pay outstanding bills and for any legal costs or bills that would be incurred in the future. I agree that Anthony J. Baratta, Esquire has taken all reasonable steps to avoid any foreseeable prejudice to me, has provided notice to me of his intent to withdraw and has allowed time for me to employ other

counsel. He has always shared with me all papers and property and I know he would deliver any papers and property to which I am entitled upon my request.

I consent to the withdrawal by Anthony J. Baratta and Justin O. Kay as mine and Sarris Financial Group's counsel.

DATE:

Oct 11 2012  
1

  
EMANUEL L. SARRIS, SR.

SWORN TO AND SUBSCRIBED

TO BEFORE ME THIS

11<sup>th</sup>

DAY OF

October, 2012.

  
NOTARY PUBLIC

